

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO. 709 OF 2006**

Indian Bank

...Petitioner

V/s

Larsen and Toubro Group of Companies Employees

Co-operative Housing Society Limited & Ors. ...Respondents.

Mr. S. Shetye instructed by M/s. Pandya Gandhi & Co.  
for the Petitioner

Mr. A. Aggarwal for Respondent No. 1

Dr. Gopinathan, Power of Attorney holder, in person for  
23 Defendants in the suit.

**CORAM: V.G. PALSHIKAR, Ag.C.J., &**  
**SMT. NISHITA MHATRE, J.**  
**DATE: FEBRUARY 21, 2006.**

**P.C.:-**

By this petition, the petitioner, which is a bank, has  
impugned order passed by the Debts Recovery Appellate  
Tribunal, Mumbai, in Misc. Appeal No. 167 of 2005 on 21st  
December, 2005.

2. The respondents had filed an application in the original claim, requiring production of certain documents mentioned therein by the bank, which is the claimant or plaintiff in the Debts Recovery Tribunal. The application came to be rejected by the Debts Recovery Tribunal, Mumbai, and therefore, Misc. Appeal No. 167 of 2005 was filed to the Appellate Tribunal. The Appellate Tribunal, after hearing parties, passed the impugned order.

3. The appellants before the Tribunal, i.e., the respondents, the defendants in the original claim, by their application before the Debts Recovery Tribunal, made three prayers. After quoting the prayers, the Appellate Tribunal observed that so far as the order in respect of prayers (b) and (c) is concerned, no case was made out in appeal, and therefore, those prayers were not granted.

4. Insofar as prayer (a) is concerned, requiring direction to the appellants to produce original ledger of all members of the Society or copies thereof, it was observed that the claim has some force, and therefore, its production was ordered, which is impugned. The Appellate Tribunal observed,

in its order, that the bank was not in a position to give any satisfactory reply for supporting their claim for non-production of these accounts. The Appellate Tribunal has then observed that the plaintiff-bank should have transparency in its dealings, and proceeded to observe as under:-

"Moreover, the suit is to be tried, to decide the fate of more than 300 individuals, out of whom certain defendants have (sic) already seem to have discharged their liability due to the bank."

The Appellate Tribunal has also observed that in the event of non-production of these documents, consequences as provided by law will follow.

5. In our opinion, no jurisdictional error is committed by the Appellate Tribunal in making the impugned order. All that has been done is to exercise its power under Order 16, Rule 20, of the Code of Civil Procedure, which permits the Court to require the production of any document. This clause does not specify or pertain to only documents on which reliance is placed by the plaintiff. Consequently, the direction cannot be faulted by the bank.

6. We see no reason to interfere. The petition is dismissed.